

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**KARINA SMITH and ELIJA MOSES,  
individually and on behalf of others  
similarly situated,**

**Plaintiffs,**

**vs.**

**Case No.: 8:09-CV-1628-T-27MAP**

**JEFF RAINEY, et al,**  
\_\_\_\_\_ /

**REPORT AND RECOMMENDATIONS OF GUARDIAN AD LITEM RELATING TO  
SETTLEMENT WITH DEFENDANT, JEFF RAINEY, SUNNY HALL AND  
HILLSBOROUGH KIDS, INC.**

On behalf of Karina Smith and Elijah Moses, I am the person Court-appointed to serve as Guardian ad Litem.

1. I am familiar with the case and the claims of the Plaintiffs against all Defendants, including Jeff Rainey, Sunny Hall and Hillsborough Kids, Inc. (HKI DEFENDANTS).
2. I approve and recommend that the Court approve the settlements reached for the reasons set forth herein.

**The Settlement**

The combined \$180,000.00 settlement amount (\$90,000.00 per named Plaintiff) being paid by HKI DEFENDANTS for Karina and Elijah is fair, under the circumstances. Agreeing to this settlement avoids the incurring of additional costs as to the claims against HKI DEFENDANTS.

As to the settlement, Plaintiffs will provide a signed release which has been agreed to by the parties.

Following Court approval of the settlement, and the providing of the signed release and receipt of the settlement check, Plaintiff will dismiss the claims against HKI DEFENDANTS with prejudice, with the parties to bear their respective fees and costs.

#### **Disbursement**

The applicable contracted attorney's fees as to the settlement with HKI DEFENDANTS are 40% resulting in a fee of \$36,000.00 per Plaintiff (\$72,000.00 total), a reasonable fee for Plaintiff's counsel under the circumstances. Total Attorney Fees are split between the following attorneys:

Filson & Penge, P.A.	\$ 58,000.00
Wasson & Associates	\$ 9,000.00
Karen Gievers	\$ 5,000.00

The total shared costs to date are currently \$365.16, Karina's individual costs total \$182.58, and Elijah's individual costs total \$182.58 with some bills not yet received. The costs are reasonable, and were necessarily incurred. (Total costs were actually much greater but were reduced after settlement with other Defendants, which I find reasonable).

#### **Medicaid Liens**

There are claimed Medicaid liens, but the amounts are contested and will be determined by the Court.

#### **Special Needs Trust**

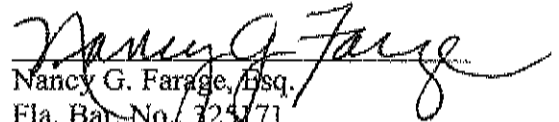
The net proceeds for each named Plaintiff after payment of the attorneys fees, costs and related liens should be placed in a Special Needs Trust for each of the minor Plaintiffs; this will protect the Plaintiffs funds while maintaining the Plaintiffs' Medicaid eligibility.

Conclusion

The settlement should be approved. The proposed disbursements are appropriate, and the use of a Medicaid Special Needs Trusts fund will preserve the minor Claimants' Medicaid entitlement while maximizing the use of the Claimants' funds for the special needs of the minor Claimants.

Respectfully submitted,

Court-appointed Guardian ad Litem  
for minor Plaintiffs

  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached service list in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic filing on this 13<sup>th</sup> day of February, 2012.

/s/  
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